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**BEFORE THE  
RESPIRATORY CARE BOARD  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

Case No. 1H 2008 111

ALEKSEY GAPLYKOV  
1155 N. Gardner Street #8  
Los Angeles, California 90046

**A C C U S A T I O N**

Respiratory Care Practitioner License No. 21292

Respondent.

Complainant alleges:

PARTIES

1. Stephanie Nunez (Complainant) brings this Accusation solely in her official capacity as the Executive Officer of the Respiratory Care Board of California, Department of Consumer Affairs (Board).

2. On or about February 9, 2000, the Board issued Respiratory Care Practitioner License Number 21292 to Aleksey Gaplykov (Respondent). This license was in full force and effect at all times relevant to the charges brought herein and will expire on December 31, 2009, unless renewed.

JURISDICTION

3. This Accusation is brought before the Board under the authority of the

1 following laws. All section references are to the Business and Professions Code (Code), unless  
2 otherwise indicated.

3           4.       Section 3710 of the Code states: “The Respiratory Care Board of  
4 California, hereafter referred to as the board, shall enforce and administer this chapter [Chapter  
5 8.3, the Respiratory Care Practice Act].”

6           5.       Section 3718 of the Code states: “The board shall issue, deny, suspend,  
7 and revoke licenses to practice respiratory care as provided in this chapter.”

8           6.       Section 3750 of the Code states:

9           “The board may order the denial, suspension or revocation of, or the imposition of  
10 probationary conditions upon, a license issued under this chapter, for any of the following  
11 causes:

12           “ . . .

13           “(d) Conviction of a crime that substantially relates to the qualifications,  
14 functions, or duties of a respiratory care practitioner. The record of conviction or a  
15 certified copy thereof shall be conclusive evidence of the conviction.

16           “ . . . .”

17           7.       Section 3752 of the Code states:

18           “A plea or verdict of guilty or a conviction following a plea of nolo contendere  
19 made to a charge of any offense which substantially relates to the qualifications,  
20 functions, or duties of a respiratory care practitioner is deemed to be a conviction within  
21 the meaning of this article. The board shall order the license suspended or revoked, or  
22 may decline to issue a license, when the time for appeal has elapsed, or the judgment of  
23 conviction has been affirmed on appeal or when an order granting probation is made  
24 suspending the imposition of sentence, irrespective of a subsequent order under Section  
25 1203.4 of the Penal Code allowing the person to withdraw his or her plea of guilty and to  
26 enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the  
27 accusation, information, or indictment.”

28           8.       California Code of Regulations, Title 16, section 1399.370, states:

“For the purposes of denial, suspension, or revocation of a license, a crime or act shall be considered to be substantially related to the qualifications, functions or duties of a respiratory care practitioner, if it evidences present or potential unfitness of a licensee to perform the functions authorized by his or her license or in a manner inconsistent with the public health, safety, or welfare. Such crimes or acts shall include but not be limited to those involving the following:

“ . . .

“(c) Conviction of a crime involving driving under the influence or reckless driving while under the influence.

“ . . . ”

## COST RECOVERY

9. Section 3753.5, subdivision (a) of the Code states:

"In any order issued in resolution of a disciplinary proceeding before the board, the board or the administrative law judge may direct any practitioner or applicant found to have committed a violation or violations of law to pay to the board a sum not to exceed the costs of the investigation and prosecution of the case."

10. Section 3753.7 of the Code states:

"For purposes of the Respiratory Care Practice Act, costs of prosecution shall include attorney general or other prosecuting attorney fees, expert witness fees, and other administrative, filing, and service fees."

11. Section 3753.1, subdivision (a) of the Code states:

"An administrative disciplinary decision imposing terms of probation may include, among other things, a requirement that the licensee-probationer pay the monetary costs associated with monitoring the probation."

## CAUSE FOR DISCIPLINE

(Conviction of a Crime)

12. Respondent is subject to disciplinary action under sections 3750, subdivision (d), and 3752 of the Code, and California Code of Regulations, Title 16, section

1 1399.370, subdivision (c), in that he was convicted of a crime substantially related to the  
2 qualifications, functions or duties of a respiratory care practitioner. The circumstances are as  
3 follows:

4           A.     On or about February 24, 2008, a Los Angeles Police Officer received a  
5 report of a driving under the influence (DUI) hit and run traffic collision. Soon thereafter,  
6 he received a second DUI report involving the same vehicle. The officer responded to the  
7 second incident and observed that Respondent's vehicle had collided with a parked  
8 Saturn SUV. Upon contact with Respondent, the officer noticed that his speech was  
9 slurred, his face was flushed, his eyes were watery and bloodshot, and there was a strong  
10 odor of alcohol on his breath. When Respondent refused to exit his vehicle as instructed,  
11 additional officers arrived to assist him. Respondent had difficulty in standing, and was  
12 uncooperative. Field sobriety tests were not administered. Police officers interviewed  
13 the victim of the initial traffic incident who stated that after he had stopped at a stop sign,  
14 Respondent drove directly into the front of the his Ford Explorer. Respondent appeared  
15 to be intoxicated as he exited his vehicle, yelled at the victim, and then drove away.  
16 Respondent's vehicle then collided with a parked Toyota pick-up truck. Respondent was  
17 arrested for driving under the influence of alcohol. He refused to submit to a blood test.

18           B.     On or about March 11, 2008, in Los Angeles County Superior Court  
19 Complaint No. 8YY00052, Respondent was charged with driving under the influence of  
20 alcohol, in violation of Vehicle Code section 23152, subdivision (a), a misdemeanor  
21 (Count 1), hit and run driving with property damage, in violation of Vehicle Code section  
22 20002, subdivision (a), a misdemeanor (Counts 2 and 3), and attempted hit and run  
23 driving with property damage, in violation of Vehicle Code section 664-20002,  
24 subdivision (a), a misdemeanor (Count 4).

25           C.     On or about April 3, 2008, Respondent was convicted upon his plea of  
26 nolo contendere to driving under the influence of alcohol (Count 1), and hit and run  
27 driving with property damage (Count 3). As to Count 1, Respondent was placed on  
28 probation for three years on a number of terms and conditions, including serve 48 hours

1 in county jail; pay fines and assessments in the amount of \$1,728.00 or perform 13 days  
2 of community service; complete a 6-month licensed first-offender alcohol program;  
3 complete the Mothers Against Drunk Driving Victim Impact Program; and comply with  
4 all standard DUI terms and conditions of probation. As to Count 3, Respondent was  
5 placed on probation for three years (to run concurrent with Count 1), and was ordered to  
6 pay a security assessment of \$20.00, and perform 25 days of community service. Counts  
7 2 and 4 of the complaint were dismissed.

8 PRAYER

9 WHEREFORE, Complainant requests that a hearing be held on the matters herein  
10 alleged, and that following the hearing, the Respiratory Care Board issue a decision:

- 11 1. Revoking or suspending Respiratory Care Practitioner License Number  
12 21292 issued to Aleksey Gaplykov;
- 13 2. Ordering Aleksey Gaplykov to pay the Respiratory Care Board the costs of  
14 the investigation and enforcement of this case, and if placed on probation, the costs of probation  
15 monitoring; and
- 16 3. Taking such other and further action as deemed necessary and proper.

17 DATED: December 4, 2008

18  
19  
20 Original signed by Liane Zimmerman for:  
21 STEPHANIE NUNEZ  
22 Executive Officer  
23 Respiratory Care Board of California  
24 Department of Consumer Affairs  
25 State of California  
26 Complainant  
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